

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

**Confirmation No. 5330**

Edward G. SHIFRIN, et al.

Date: February 9, 2009

Serial No.: 10/550,159

Group Art Unit: 3734

Filed: September 20, 2005

Examiner: Kevin Thao TRUONG

For: SUPPLEMENTARY VASCULAR CLAMP FOR THE TOOL KIT  
OF AN OPEN APPROACH STAPLER

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VIA EFS WEB

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

This Response is filed in reply to the Restriction Requirement mailed January 14, 2009, wherein a Species requirement has been interposed.

Responsive thereto, applicant elects the Species shown in Figs. 1-3, and states that the claims associated with those figures are claims 1-6 and 10. This election is with traverse.

Preliminarily, the applicant does not agree that the expedient shown in Fig. 5 is associated with the second embodiment. It shows a ridge 56 as a compensating means. That ridge is workable even more closely with the first embodiment than with any of the others.

In addition, it is respectfully submitted that, as can be discerned from the specification, at least the embodiments of claims 1 and 2 should be examined together, because they are closely related to one another and should be examined in one application. The same general remarks are applicable to the embodiment referred to as the third species, corresponding to Figs. 6-13.

Early and favorable consideration of the present application is earnestly solicited. To the extent that the Restriction Requirement is maintained, applicant reserves the right to file a divisional application directed to the subject matter covered in non-elected species and claims and states that the action herein binds the Patent Office to the position that the expedients are not obvious variants of one another.

If communication is filed after the statutory time period had elapsed and no separate Petition enclosed, Commissioner for Patents is petitioned, under 37 C.F.R. §1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. §1.135. Fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
EFS FILING SYSTEM  
ON FEBRUARY 9, 2009

Respectfully submitted,



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